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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/586,377	05/27/2008	Alf Ljosland	BER-103-PCT/US	2954
61215	7590	10/03/2011		
DAVID I. ROCHE BAKER & MCKENZIE LLP 130 EAST RANDOLPH DRIVE CHICAGO, IL 60601			EXAMINER VAN SELL, NATHAN L	
			ART UNIT 1783	PAPER NUMBER
			MAIL DATE 10/03/2011	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/586,377	<b>Applicant(s)</b> LJOSLAND ET AL.	
	<b>Examiner</b> NATHAN VAN SELL	<b>Art Unit</b> 1783	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 5) ☒ Claim(s) 1-9 and 11-19 is/are pending in the application.
- 5a) Of the above claim(s) 14-19 is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 1-9 and 11-13 is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/18/2011</u> .   | 6) <input type="checkbox"/> Other: ____.                          |

## **DETAILED ACTION**

### ***Response to Amendment***

Amendments to the claims, filed on July 18, 2011 have been entered in the above-identified application.

Any rejections made in the previous action, and not repeated below, are hereby withdrawn.

### ***Claim Rejections - 35 USC § 103***

**The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.**

Claims 1-9 and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sweet et al. (US 5,283,102) in view of Beckett (GB 2,243,805) and Ungar (US 6,440,538).

Regarding claim 1 and 7, Sweet et al. discloses a flooring strip (20) (i.e., panel) comprising a decorative panel comprising a decorative layer with a decorative pattern (21), an intermediate layer (22) (i.e., support layer), and a bottom layer (23) (i.e., carrier layer) with the intermediate layer located between the bottom layer and the decorative layer. See Fig. 5 and the Abstract. Sweet et al discloses a tongue (15) and groove (16) arrangement with first and second upper edges on the opposite sides of the panel. See Fig. 2. It appears these would act to limit up and down movement of the panels relative to adjacent panels.

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Sweet fails to disclose the decorative layer can be at least partially absent such that a portion of the support layer is exposed, and the support layer is a layer comprising Kraft paper which is colored or died.

Beckett discloses removing the top decorative layer exposing a portion of the support layer. See the Abstract, Fig.4, and Fig. 5. Furthermore, Beckett discloses using various layers with various colors with the benefit being decorative affects. See Page 2, Paragraphs 2-3. Beckett is not explicitly disclosed as a floor panel, but it appears the decorative effects would work on a floor panel.

Ungar discloses a laminate with a wear-resistant upper layer (i.e., abrasive overlay) over the decorative layer. See the Abstract. Furthermore, Ungar discloses the support layer is Kraft paper impregnated with a resin. See Column 7, Lines 15-20. Impregnating paper with resin would cause a color change, so the paper can be considered colored. The benefit of the laminate is abrasion resistance. See Column 2, Lines 25-26.

Therefore, it would be obvious to one ordinarily skilled in the art at the time of invention to combine the floor panel of Sweet et al. with the decorative pattern of Beckett for a floor panel with enhanced decorative capabilities and with the wear-resistant layer of Ungar for a floor panel with improved abrasion resistance.

Regarding claim 2, Beckett discloses the decorative layer (22) being absent at the edge (21 and 21b) of the panel.

Regarding claim 3, Beckett discloses the decorative layer (22) being absent at the edge (21 and 21b) of the panel. It would be obvious to one ordinarily skilled in the

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art at the time of invention that it is inherent in the design of a groove and tongue connector system that the decorative layer will be absent the tongue connector (i.e., one edge) and present as the top layer above groove to insure continuity of the decorative layer. Furthermore, it would be obvious to one skilled in the art at the time of invention the support layer could be present or absent at the tongue connector edge, either acting as the tongue connector or to reinforce the tongue connector of the base layer.

Regarding claim 4, Beckett discloses removing the top decorative layer in an area other than the edge of the panel. See the Abstract, Fig. 4 and Fig. 5.

Regarding claim 5, Beckett discloses the decorative layer (22) being absent in an area that is a strip (21 or 21b). See Fig. 6. The area absent the decorative layer runs along every side of the board in a strip formation. See Fig. 6. Furthermore, it would be inherent in the design of a tongue and groove panel that the decorative layer is absent the tongue, so it would not interfere with the connectivity of the tongue into the groove. Sweet et al. demonstrates the tongue (15) is a strip that runs along the length of the board. See Fig. 1 and Fig. 2.

Regarding claim 6, Sweet et al. discloses a panel with the decorative layer (11) and support layer (12) both absent in the same area. See left edge of Fig. 2.

Regarding claim 8, Sweet et al. discloses a tongue (25) configuration where the decorative layer is absent. See Fig. 4. It would be obvious to one ordinarily skilled in the art at the time of invention this area would be used for connecting purpose, would not see regular stepping traffic, so it would not need to be treated with the wear resistant layer. Furthermore, treating it with the wear resistant layer might alter the mechanical

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tolerances needed to assure a smooth connection between the tongue and groove connections.

Regarding claim 9, Ungar discloses the decorative layer is a printed paper. See Column 6, Lines 64-65.

Regarding claim 11, Sweet et al. discloses the carrier layer is made of wood. See Column 5, Lines 28-31.

Regarding claim 12, Sweet et al. discloses the area (25) absent the decorative layer would be a rectangular cross section. See Fig. 4. The top view of (25) would be a rectangle. See Fig. 4.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sweet et al. in view of Beckett and Ungar as applied to Claim 1 above, and further in view of Tychsen (US 2003/0101681 A1)

Sweet et al. as modified by Beckett and Ungar teaches the flooring panel of Claim 1.

Sweet as modified by Beckett and Ungar fails to suggest a plurality of connection portions at the edges of the panel that connect by snapping, tilting, or clicking together. The tongue and groove connectors of Sweet et al. are basic and appear to just slide together. See Fig. 4.

Tychsen discloses a tongue and groove connector (8) that would connect by tilting or angling the panel into place with or without play. See Fig. 3. The benefit of the connector is to provide a secure connection between panels that cannot be unintentionally broken. See Page 1, Paragraph 8.

Therefore, it would be obvious to one ordinarily skilled in the art at the time of invention to combine the floor panel of Sweet et al., Beckett and Ungar with the secure connector of Tychsen for a floor panel with a secure connection that cannot be unintentionally broken.

### ***Response to Arguments***

Applicant's arguments filed July 18, 2011 have been fully considered but they are not persuasive.

Applicant argues that it is not obvious to combine the teachings of Sweet and Beckett, and even if was obvious, neither Sweet or Beckett suggests using colored or dyed Kraft papers as the support layers. Specifically, applicant argues that Beckett does not teach a support layer. Furthermore, the applicant argues that the combination of Sweet and Beckett with Ungar does not fix this, since Ungar does not suggest the Kraft papers are colored or dyed.

It would be obvious to combine the teachings of Sweet and Beckett with the motivation being, per above rejections, to modify Sweet et al. with the decorative pattern of Beckett for a floor panel with enhanced decorative capabilities. The applicant appears to be construing the teachings of Beckett too narrowly. Beckett broadly teaches using different layers of different colors to create decorative effects. See Page 2, Paragraph 2-3. Beckett discloses the sheets can be that of melamine (i.e., a resin impregnated sheet). See Page 2, Paragraph 4. Ungar discloses the support layer is Kraft paper impregnated with a resin. See Column 7, Lines 15-20. Impregnating paper with resin would cause a color change, so the paper can be considered colored. However, in

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combining the teachings of Sweet, Beckett, and Ungar, it would be obvious to the skilled artisan the core layers as provided by Ungar could be colored per Beckett with the motivation being to enhance the decorative capabilities.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NATHAN VAN SELL whose telephone number is (571)270-5152. The examiner can normally be reached on Monday through Friday, 9am til 6:30pm, EST, alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Sample can be reached on (571)272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David R. Sample/  
Supervisory Patent Examiner, Art Unit 1783

/N. V./  
Examiner, Art Unit 1783